

## 1 HOUSE BILL NO. 617

2 INTRODUCED BY J. SINRUD, ARNTZEN, BARRETT, HILBERT, L. JONES, MACLAREN, NOONEY,  
3 PARKER, RIPLEY, SONJU, TAYLOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FILING REQUIREMENTS FOR CHILD SUPPORT  
6 DEBTS; REQUIRING THAT NOTICE OF A SUPPORT DEBT BE FILED WITH THE CLERK OF THE DISTRICT  
7 COURT FOR THE JUDICIAL DISTRICT IN WHICH THE MOST RECENT SUPPORT ORDER WAS ISSUED;  
8 ~~REQUIRING THE CLERK OF THE DISTRICT COURT TO GIVE NOTICE OF POSSIBLE CONTEMPT~~  
9 ~~PROCEEDINGS TO THE OBLIGOR~~; REQUIRING THE FILING OF A FINAL ADMINISTRATIVE ORDER FOR  
10 A SUPPORT DEBT WITH THE CLERK OF THE DISTRICT COURT; ~~AUTHORIZING~~ REQUIRING THE  
11 COMMENCEMENT OF CONTEMPT OF COURT PROCEEDINGS UPON THE FILING OF A FINAL  
12 ADMINISTRATIVE ORDER FOR A SUPPORT DEBT UNDER CERTAIN CIRCUMSTANCES; AND AMENDING  
13 SECTIONS 40-5-222 AND 40-5-227, MCA."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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17 **Section 1.** Section 40-5-222, MCA, is amended to read:

18 **"40-5-222. Support debt based upon support order -- notice -- contents -- action to collect.** (1) The  
19 department may issue a notice of a support debt accrued or accruing based upon a support order. The notice  
20 may be served upon the obligor, in the manner prescribed for the service of a summons in a civil action in  
21 accordance with the provisions of the Montana Rules of Civil Procedure, demanding payment within 20 days of  
22 the date of receipt.

23 (2) The notice of debt ~~shall~~ must include:

24 (a) a statement of the support debt accrued or accruing, computable on the amount required to be paid  
25 under any support order;

26 (b) a statement that the property of the debtor is subject to collection action;

27 (c) a statement that the property is subject to distraint and seizure and sale;

28 (d) a statement that the net proceeds will be applied to the satisfaction of the support debt; and

29 (e) a statement that the obligor is entitled to a fair hearing.

30 (3) Action to collect the support debt by distraint and seizure and sale is lawful after 20 days from the

1 date of service upon the obligor or 20 days from the receipt or refusal by the debtor of the notice of debt.

2 (4) Within 20 days of the date of service of notice of support debt, the obligor may request a fair hearing  
3 as provided in 40-5-226.

4 (5) The department shall send a copy of the notice described in subsection (2) to the clerk of the district  
5 court for the judicial district in which the most recent support order was issued. Upon receipt of the notice, the  
6 clerk of the district court shall notify the obligor that if the support debt is not satisfied as provided in this part, the  
7 obligor may be subject to a contempt proceeding under 40-5-227."

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9 **Section 2.** Section 40-5-227, MCA, is amended to read:

10 **"40-5-227. Filing and docketing of final orders -- orders effective as district court decrees.** (1) An  
11 abstract of any final administrative order under this chapter may be filed in the office of the clerk of the district  
12 court of any county of Montana and must be filed in the office of the clerk of the district court that received notice  
13 under 40-5-222(5). Upon the request of the department, the The order must be docketed in the judgment docket  
14 of the district court. The properly filed and docketed order has all the force, effect, and attributes of a docketed  
15 order or decree of the district court, including but not limited to lien effect and enforceability by supplemental  
16 proceedings, writs of execution, and contempt of court proceedings. A final administrative order of the department  
17 is effective and enforceable without filing and docketing the order in the district court. Contempt of court  
18 proceedings and writs of execution based on the administrative order may not be requested from the district court  
19 unless the administrative order is first docketed with the district court. The administrative order may not operate  
20 as a judgment lien; unless the order is first docketed with the district court or a lien is otherwise perfected under  
21 the laws of this state, including 40-5-248.

22 (2) A final administrative order that determines and sets periodic support payments in the absence of  
23 a district court order, when filed and docketed under this section, may be modified by a district court order only  
24 as to installments accruing after actual notice to the parties of any motion for modification. The standard for a  
25 modification is that set forth in 40-4-208.

26 (3) The department may issue a warrant for distraint based upon a properly filed and docketed order  
27 pursuant to 40-5-247.

28 ~~(4) After an abstract has been filed pursuant to subsection (1), a district court may commence contempt~~  
29 ~~proceedings pursuant to Title 3, chapter 1, part 5.~~

30 (4) IF THE DEPARTMENT HAS FILED AN ABSTRACT PURSUANT TO SUBSECTION (1) AFTER ISSUING A NOTICE OF

1 A SUPPORT DEBT PURSUANT TO 40-5-222, THE DEPARTMENT SHALL PETITION THE DISTRICT COURT TO FIND THE OBLIGOR  
2 IN CONTEMPT IF THE OBLIGOR HAS NOT MADE A PAYMENT ON THE DEBT IN 30 DAYS."  
3 - END -